

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:10-CR-107-FL-1
No. 7:16-CV-95-FL

CHRISTOPHER HAROLD GOINS, JR.,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	


This matter is before the court on petitioner's motion to vacate, set aside, or correct sentence, made pursuant to 28 U.S.C. § 2255 (DE 52), which challenges petitioner's Armed Career Criminal Act (ACCA) sentencing enhancement in light of Johnson v. United States, 135 S. Ct. 2551 (2015). Also before the court is the government's motion to dismiss, made pursuant to Federal Rule of Civil Procedure 12(b)(6). (DE 58).

On December 8, 2016, the court held in abeyance ruling on the instant motions and directed the government to file further documentation regarding the nature of petitioner's prior conviction denominated in the PSR as "assault with a deadly weapon with intent to kill or inflict serious injury." (PSR ¶ 17). The government did not respond to the court's order. Defendant filed a response reiterating his position that none of the assault convictions constitute predicate convictions for purposes of the Armed Career Criminal Act.

In light of the government's lack of response to the court's order, the court DIRECTS the United States Probation Office to file, by **February 14, 2017**, the documentation specified as "court records" in the PSR, which were used to develop the title for petitioner's prior conviction for

“assault with a deadly weapon with intent to kill or inflict serious injury,” as well as the accompanying factual description of the offense, namely: “According to court records, on May 18, 1996, the defendant assaulted Ronald Winns by stabbing him in the stomach with a ‘survival’ type knife with the intent to kill the victim.” (PSR ¶ 17).

SO ORDERED, this the 31st day of January, 2017.



LOUISE W. FLANAGAN
United States District Judge